IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 652 OF 1990

The State of Maharashtra .. Appellant

versus

Raj Bahadur R. Yadav .. Respondents

...

Mr.D.P. Adsule, APP for the State.

None for the State.

CORAM : V.M. KANADE, J

DATED : 29th October 2004.

ORAL ORDER:-

1. Heard the learned counsel APP appearing on behalf of the State.

2. The State is challenging the judgement and order passed by Addl. Chief Metropolitan Magistrate, 5th Court, Dadar in case no.174/P/87. The respondent accused were charged u/s.380 and 381 r/w sec.34 of the IPC. The prosecution case is that the accused had stolen 12,000 litres of Petrol from the HPCL Company.

The learned APP has taken me through the judgement and order of the trial Court and also the evidence adduced by the prosecution. The prosecution evidence reveals that PW no.12 was not in a position to state the relevant date, time and place whether the alleged offence has taken place. In fact, from the evidence on record essential ingredients of the said section are not proved. The petrol was found in a petrol tanker. The said vehicle belonged to a dealer viz. Samarjit Transport Co. Bombay who had entered into a contract of HPCL for taking delivery of Petrol from their complex at Wadala. The said dealer had necessary challan and other documents authorising him to take the delivery of the said vehicle and petrol. The trial Court in my view has therefore rightly come to the conclusion that the prosecution has not proved the case u/s.380, 381 against the respondent accused.

3. I do not see any reason to interfere with the said judgement and order specially lapse of 14 years.

Appeal is dismissed.

V.M. KANADE, J